



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

JOHN D. CHERRY, JR.
LT. GOVERNOR

**EXECUTIVE DIRECTIVE
No. 2005 – 3**

**PROCUREMENT OF GOODS AND SERVICES AND
PROHIBITION OF NO-BID CONTRACTS**

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, under Section 8 of Article V of the Michigan Constitution of 1963 each principal department of state government is under the supervision of the Governor unless otherwise provided by the Constitution;

WHEREAS, under Section 8 of Article V of the Michigan Constitution of 1963, the Governor is responsible to take care that the laws be faithfully executed;

WHEREAS, under Section 551 of The Management and Budget Act, 1984 PA 431, MCL 18.1551, the Governor shall inquire into the administration of The Management and Budget Act;

WHEREAS, under Section 261 of The Management and Budget Act, 1984 PA 431, MCL 18.1261, the Department of Management and Budget must provide for the purchase of, the contracting for, and the providing of supplies, materials, services, insurance, utilities, third party financing, equipment, printing, and all other items as needed by state agencies, and must utilize competitive bidding for all such purchases unless the Department determines that another procurement method is in the state's best interests;

WHEREAS, under Section 261 of The Management and Budget Act, 1984 PA 431, MCL 18.1261, the Department of Management and Budget is required to solicit competitive bids from the private sector whenever practicable to efficiently and effectively meet the state's needs;

WHEREAS, under Section 237b of The Management and Budget Act, 1984 PA 431, MCL 18.1237b, the selection of architects, professional engineers, professional surveyors, and qualified firms shall be made in accordance with competitive, qualifications-based selection processes and procedures for the type of professional service required by the Department of Management and Budget;

WHEREAS, under Section 241 of The Management and Budget Act, 1984 PA 431, MCL 18.1241, the Department of Management and Budget must prescribe procedures that require a competitive solicitation in the award of any contract for construction, repair, remodeling, or demolition of a state facility;

WHEREAS, under Section 261 of The Management and Budget Act, 1984 PA 431, MCL 18.1261, the Department of Management and Budget makes all discretionary decisions concerning the solicitation, award, amendment, cancellation, and appeal of state contracts;

WHEREAS, under Section 131 of The Management and Budget Act, 1984 PA 431, MCL 18.1131, the Director of the Department of Management and Budget may issue, alter, or rescind administrative and procedural directives as determined to be necessary for the effective administration of The Management and Budget Act, 1984 PA 431, MCL 18.1131;

WHEREAS, in the two-year period ending on December 31, 2002, the State of Michigan entered into \$592.5 million worth of no-bid contracts;

WHEREAS, since December 31, 2002, the State of Michigan has reduced no-bid contracts by 88 percent;

WHEREAS, by curtailing the use of no-bid contracts to less than 2 percent of state contracts, this Administration has reduced the cost of government for Michigan taxpayers;

WHEREAS, the use of no-bid contracts has been limited by this Administration to the extent that it is now feasible to prohibit the use of no-bid contracts in state government;

WHEREAS, prohibition of no-bid contracts will assist in preventing waste, fraud, and abuse;

WHEREAS, prohibition of no-bid contracts will contribute to the efficient and effective administration of state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power vested in the Governor by the Michigan Constitution of 1963 and Michigan law direct the following:

I. PROHIBITION OF NO-BID CONTRACTS

A. The Director of the Department of Management and Budget shall, consistent with this Directive, adopt policies and procedures necessary to utilize competitive solicitation for all purchases of, and contracts for, supplies, materials,

services, insurance, utilities, third party financing, equipment, printing, and all other items needed by state departments or agencies.

B. The Director of the Department of Management and Budget shall adopt policies and procedures necessary to require competitive solicitation and to prohibit no-bid or sole-source contracts except when any of the following apply:

1. Procurement of goods or services is necessary for the imminent protection of public health or safety or to mitigate an imminent threat to public health or safety, as determined by the Director of the Department of Management and Budget or his or her designated representative.

2. Procurement of goods or services is for emergency repair or construction caused by unforeseen circumstances when the repair or construction is necessary to protect life or property.

3. Procurement of goods or services is in response to a declared state of emergency or state of disaster under the Emergency Management Act, 1976 PA 390, MCL 30.401 to 30.421.

4. Procurement of goods or services is in response to a declared state of emergency under 1945 PA 302, MCL 10.31 to 10.33.

5. Procurement of goods or services is in response to a declared state of energy emergency under 1982 PA 191, MCL 10.81 to 10.89.

6. Procurement of goods or services is within a department's purchasing authority delegated under The Management and Budget Act, 1984 PA 431, MCL 18.1101 to 18.1594, the value of the procurement is less than \$25,000.00, and the department has established policies or procedures approved by the Department of Management and Budget to ensure that goods or services with a value of less than \$25,000 are purchased by the department at fair and reasonable prices. This paragraph shall not be construed to prohibit a department exercising delegated purchasing authority from utilizing a competitive solicitation process.

C. Nothing in this Directive shall be interpreted to preclude the award of a contract based upon qualifications or based upon best value for the State of Michigan.

D. The Director of the Department of Management and Budget shall issue directives and adopt changes to the Administrative Guide to State Government as necessary to implement this Directive, which may include a waiver process to implement the exceptions provided for in Paragraph B.

II. ENFORCEMENT

A. The Department of Management and Budget shall enforce the requirements of this Directive and any policies, procedures, or department directives issued to implement this Directive pursuant to The Management and Budget Act, 1984 PA 431, MCL 18.1101 to 18.1594.

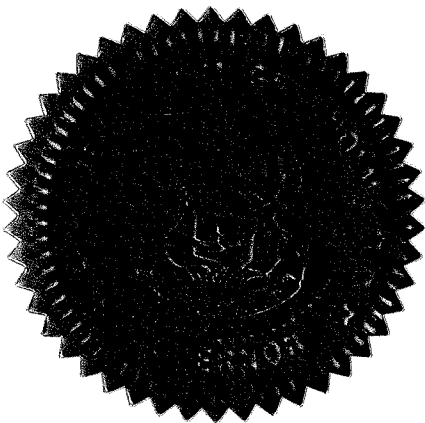
B. In exercising general supervisory control over the functions and activities of all administrative departments, boards, commissioners and officers of the state, and of all state institutions as required under Section 3 of 1921 PA 2, MCL 17.3, the State Administrative Board shall monitor compliance with the requirements of this Directive.

C. Reports of violation of the requirements of this Directive shall be transmitted to the Director of the Department of Management and Budget and to the Secretary of the State Administrative Board.

D. The State Administrative Board may take action to enforce the requirements of this Directive as authorized under 1921 PA 2, MCL 17.1 to 17.3.

All departments and agencies shall assist the Department of Management and Budget, as necessary, in implementing this Directive

This Directive is effective April 30, 2005.



Given under my hand this 25th day of February, in the year of our Lord, two thousand and five.


JENNIFER M. GRANHOLM
GOVERNOR